



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland  
(Housing and Property Chamber) under Section 16 of the Housing (Scotland)  
Act 2014**

**Chamber Ref: FTS/HPC/CV/19/0741**

**Re: Property at 13D Hepburn Street, Dundee, DD3 8BT (“the Property”)**

**Parties:**

**Mr Frank Docherty, 8 Brechin Road, Forfar, Angus, DD8 3JJ (“the Applicant”)**

**Miss Leanne McDonald, 12 Elgin Street, Dundee, DD3 8NL (“the Respondent”)**

**Tribunal Members:**

**Neil Kinnear (Legal Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that**

**Background**

This is an application for a payment order dated 4<sup>th</sup> March 2019 and brought in terms of Rule 70 (Application for civil proceedings in relation to an assured tenancy under the 1988 Act) of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Applicant sought payment of arrears in rental payments of £1,245.00 in relation to the Property from the Respondent, and provided with his application copy short assured tenancy agreement, and redacted bank account statements.

The short assured tenancy agreement had been correctly and validly prepared in terms of the provisions of the *Housing (Scotland) Act 1988*, and the procedures set out in that Act had been correctly followed and applied.

A Case Management Discussion was held on 2<sup>nd</sup> May 2019 at Caledonian House, Greenmarket, Dundee. The Applicant appeared, and was not represented. The Respondent did not appear, nor was she represented.

A direction was given to the Applicant on 2<sup>nd</sup> May 2019 to provide certain further information to the Tribunal in relation to his application.

The Respondent e-mailed the Tribunal on 13<sup>th</sup> May 2019 indicating her personal circumstances and reason for leaving the Property, and that she was seeking legal advice on her situation.

The Tribunal e-mailed the Respondent back on 16<sup>th</sup> May 2019 acknowledging her e-mail, and asking if she could confirm whether she disputed the sum sought in this application and advising her that if she or any representative did not respond to the Tribunal or appear at the forthcoming Case Management Discussion of 4<sup>th</sup> June 2019, then the Tribunal might make a payment order against her in her absence. No reply has been received to that e-mail, nor has there been any further communication from the Respondent.

The Respondent has previously been validly served by sheriff officers with the notification, application, papers and guidance notes from the Tribunal on 12<sup>th</sup> April 2019, and I was provided with the execution of service. The Respondent was then validly served with intimation of the Case Management Discussion of 4<sup>th</sup> June 2019 on 15<sup>th</sup> May 2019, and I was provided with the execution of service.

### **Case Management Discussion**

A Case Management Discussion was held on 4<sup>th</sup> June 2019 at Dundee Carers Centre, Seagate House, 132-134 Seagate, Dundee. The Applicant again appeared, and again was not represented. The Respondent again did not appear, and again was not represented.

The Applicant produced the three items he was required to provide in the Tribunal's direction of 2<sup>nd</sup> May 2019.

The Applicant produced a copy letter from his letting agent, Rosemount Property, confirming that he had instructed them to market the Property for let commencing the day after the Respondent quit the Property on 27<sup>th</sup> April 2019, that they did so, and that a new tenant was obtained commencing a tenancy of the Property on 7<sup>th</sup> January 2019.

The Applicant also produced a written calculation disclosing the calculation of the rent due for the period from when the Respondent quit the Property until the *ish* date.

Finally, the Applicant produced copy redacted bank statements covering the period up to 14<sup>th</sup> July 2018 showing that no payments were made by the Respondent to the Applicant in that period.



I was invited by the Applicant with reference to the application and papers to grant an order for payment of the sum £1,244.00, which is the sum that the rent arrears calculation indicated is currently outstanding.

### **Statement of Reasons**

Section 16 of the *Housing (Scotland) Act 2014* provides as follows:

“16. Regulated and assured tenancies etc.

(1) The functions and jurisdiction of the sheriff in relation to actions arising from the following tenancies and occupancy agreements are transferred to the First-tier Tribunal -

(a) a regulated tenancy (within the meaning of section 8 of the Rent (Scotland) Act 1984 (c.58)),

(b) a Part VII contract (within the meaning of section 63 of that Act),

(c) an assured tenancy (within the meaning of section 12 of the Housing (Scotland) Act 1988 (c.43)).

(2) But that does not include any function or jurisdiction relating to the prosecution of, or the imposition of a penalty for, a criminal offence.

(3) Part 1 of schedule 1 makes minor and consequential amendments.”

Accordingly, the Tribunal now has jurisdiction in relation to claims by a landlord (such as the Applicant) for payment of unpaid rental against a tenant (such as the Respondent) under a short assured tenancy such as this.

The Tribunal considered the terms of the short assured tenancy agreement and the copy rent arrears calculation provided, and was satisfied that this disclosed an outstanding balance of rent arrears in the sum sought of £1,244.00.

Accordingly, the Tribunal shall make an order for payment of that sum.

### **Decision**

In these circumstances, the Tribunal will make an order for payment by the Respondent to the Applicant of the sum of £1,244.00.

### **Right of Appeal**

**In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That**

**party must seek permission to appeal within 30 days of the date the decision was sent to them.**

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**Date**

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